

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

02 APR 26 PM 2:00

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

Ramon Aragon, *et al.*,

Defendants.

69cv07941 JEC-ACE

RIO CHAMA STREAM SYSTEM
Section 3: Rio Nutrias, Rio Cebolla
& Canjilon Creek

Subfile No. CHCJ-002-0031

MOTION TO VACATE CONSENT ORDER
IN SUBFILE CHCJ-002-0031 AND FOR LEAVE
TO FILE NEW CONSENT ORDER

COMES NOW the Plaintiff, State of New Mexico, *ex rel.* State Engineer, and moves the Court to issue its order vacating the Consent Order filed July 23, 2001, (Docket No. 6289) between Plaintiff State of New Mexico and Defendant JEANNE A JOLLY in subfile CHCJ-002-0031, and granting leave for the State and Defendants PAUL R. BACA and AMALIA M. BACA to file a new Consent Order in subfile CHCJ-002-0031 concerning the Bacas' right to use the public waters of the Rio Chama Stream System. As grounds therefore the Plaintiff states:

1. The State and Defendant Jolly signed and approved a Consent Order concerning Defendant Jolly's water rights under Subfile CHCJ-002-0031 based upon a determination, made during preparation of the State's Hydrographic Survey for the Canjilon Creek subsection of the Rio Chama Stream System, that Defendant Jolly owned the land associated with that subfile. In fact, Defendant Jolly transferred that land to the Bacas on May 30, 2001. The Bacas recently provided a warranty deed to the hydrographic survey staff. There is no dispute between Defendant Jolly and the Bacas concerning

the Bacas' ownership of the land. As a result of this current information, the State's files were corrected to show that the Bacas own the land associated with subfile CHCJ-002-0031.

2. Counsel for the State has contacted Defendants Jolly and the Bacas concerning the substance of this motion, and Defendants do not oppose vacating the Consent Order filed July 23, 2001, and the entry of a new Consent Order based upon the correct ownership of the land associated with subfile CHCJ-002-0031.

WHEREFORE, the Plaintiff State of New Mexico requests the Court to enter its order vacating the Consent Order filed July 23, 2001, (Docket No. 6289), and granting leave for the State and the Bacas to file a new Consent Order concerning the Bacas' right to use the public waters of the Rio Chama Stream System.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion to Vacate Consent Order in Subfile CHCJ-002-0031 and for Leave to File New Consent Order was mailed to the following persons on April 26, 2002.



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